

ORIGINAL

JACOREY TAYLOR  
Name

05263-748

Prison Number

USP VICTORVILLE

Place of Confinement

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 15 2016	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

vs.

JACOREY TAYLOR Movant.

CASE NO. \_\_\_\_\_  
(To be supplied by the Clerk)MOTION PURSUANT TO  
28 U.S.C. §2255 TO VACATE,  
SET ASIDE OR CORRECT  
SENTENCE BY A PERSON IN  
FEDERAL CUSTODY

(If movant is attacking a sentence based on a federal conviction to be served in the future, the motion should be filed in the federal court which entered the judgment.)

- Name and location of the court which entered the judgment of conviction under attack: UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA AT LAS VEGAS
- Date judgment of conviction was entered: OCTOBER 22, 2013
- Case number: 2:08-CR-283-KTD
- Length and terms of sentence: COUNTS 1-17-18 240 MONTHS EACH  
TO RUN CONCURRENT. COUNT 5 - MANDATORY LIFE CONCURRENT  
COUNT SIX CONSECUTIVE LIFE SENTENCE / COUNT NINE LIFE  
SENTENCE CONCURRENT

- 5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion?

Yes ☐ No ☒

- 6) Name of the judge who imposed sentence under attack in this motion: \_\_\_\_\_

HONORABLE ROBERT C. JONES

- 7) Nature of the offense involved (all counts): 18 USC 1962(d)

18 USC § 1959 18 USC § 924(c) 21 USC § 846

21 USC § 841

- 8) What was your plea? (check one)

a) Not Guilty ☒ b) Guilty ☐ c) Nolo Contendere ☐

- 9) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement: 18 USC § 1962(d) 18

- 10) If you were found guilty after a plea of not guilty, was the finding made by: (check one)

a) A jury ☒ b) A judge without a jury ☐

- 11) Did you testify at trial (if any)? Yes ☐ No ☐

- 12) Did you appeal from the judgment of conviction? Yes ☒ No ☐

DID YOU APPEAL THE SENTENCE 18 USC §

NO ☒

- 13) If you did appeal, answer the following:

- a) State the name and location of the court where the appeal was filed, the result, the case number and the date of the court's decision (or attach a copy of the court's opinion or order):

NINTH CIRCUIT COURT OF APPEALS NO 13-10572

- b) State the issues raised: 1. INSTRUCTIONS TO THE JURY (4) FOUR ONLY. NO OTHER CLAIMS.

- 14) If you did not appeal, explain briefly why you did not: \_\_\_\_\_

15) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed in any federal court any petitions, applications or motions with respect to the judgment under attack in this motion? Yes ☒ No ☐

16) If your answer to question 15 was "Yes", give the following information:

a) As to the first petition, application or motion:

1) Name of court: NINTH CIRCUIT COURT OF APPEALS

2) Nature of proceeding: "OUT OF TIME APPEAL" 18 USC § 3742(d)(2)

3) Issues raised: INEFFECTIVE COUNSEL & SENTENCING COURT VIOLATED RULE 32(C)(3) - NOTICE OF RIGHT TO APPEAL AN ILLEGAL SENTENCE

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☒

5) Result: PENDING

6) Date of result: \_\_\_\_\_

7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_

8) If you did not appeal, briefly explain why you did not:

STILL PENDING

b) As to any second petition, application or motion, give the following information:

- 1) Name of court: NONE
- 2) Nature of proceeding: \_\_\_\_\_
- 3) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐
- 5) Result: \_\_\_\_\_
- 6) Date of result: \_\_\_\_\_
- 7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 8) If you did not appeal, briefly explain why you did not: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c) As to any third petition, application or motion, give the following information:

- 1) Name of court: NONE
- 2) Nature of proceeding: \_\_\_\_\_
- 3) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐
- 5) Result: \_\_\_\_\_
- 6) Date of result: \_\_\_\_\_

- 7) Did you appeal the result to the federal appellate court having jurisdiction? Yes ☐ No ☐ If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order): \_\_\_\_\_

- 8) If you did not appeal, briefly explain why you did not: \_\_\_\_\_

- 17) State **concisely** every ground on which you claim that you are being held unlawfully. Summarize **briefly** the **facts** supporting each ground. If necessary, you may attach up to two extra pages (8 1/2" x 11") stating additional grounds or supporting facts. You should raise in this motion all available grounds for relief which relate to the conviction under attack.

- a) Ground One: COUNSEL WAS INEFFECTIVE AT TRIAL  
SENTENCING AND ON DIRECT APPEAL

- 1) Supporting facts (tell your story briefly without citing legal authority or argument): 1.) COUNSEL DID NOT APPEAL AN ILLEGAL SENTENCE VIA 18 USC § 3742 (b)(2) ... OUT OF TIME APPEAL?
- 2.) COUNSEL FAILED TO OBJECT TO ALL PSR ENHANCEMENTS AND FALSE ALLEGATIONS NOT SUPPORTED BY TESTIMONY & FACTS.
- 3.) COUNSEL FAILED TO OBJECT TO FACT THAT COUNTS 17 & 18 DO NOT INDICT DEFENDANT TAYLOR, YET SENTENCED HIM.
- 4.) COUNSEL FAILED TO OBJECT AT SENTENCING THAT THE JUDGE DID NOT WANT TO SENTENCE TAYLOR TO LIFE, YET MANDATORY.

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. § 2255, or any other petition, motion or application?

☐ Yes ☒ No

- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: THIS IS FIRST § 2255  
INEFFECTIVE FAILED TO PRESENT THESE CLAIMS

- b) Ground Two: 18 USC § 1957 (a) "HOBBS ACT" AS USED AS A PRENATE  
ACT TO CONVICT UNDER 18 USC § 1962(d) 18 USC § 1959,  
THE STATUTE IS VOID FOR VAGUENESS, RULE OF LENITY APPLIES,

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

- 1.) THE "HOBBS ACT" DOES NOT PROTECT ANY ILLEGAL ACTIVITY  
OR ILLEGAL ENTERPRISE OR ILLEGAL ENTERPRISE,
- 2.) THE "HOBBS ACT" DOES NOT DEFINE A CRIMINAL OR  
CRIMINAL ENTERPRISE, AS A PROTECTED CLASS, "CORPORATION  
DETURE" LEGAL PERSON . . . . VOID FOR VAGUENESS,
- 3.) THE UNITED STATES SUPREME COURT HAS ISSUED ITS  
VIEWS CITE: 114 L Ed 2d 743, TO ITS VALIDITY,

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. § 2255, or any other petition, motion or application?

No ☒

- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: INEFFECTIVE COUNSEL  
FAILED TO PRESENT AT TRIAL, SENTENCING  
AND ON DIRECT APPEAL

- c) Ground Three: CONVICTION & SENTENCE ON COUNT 6  
A VIOLATION OF 18 USC § 924(c)(1) IS VOID FOR  
VAGUENESS, RULE OF LENITY APPLIES

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

1.) THE UNITED STATES SUPREME COURT'S DICTA IN "JOHNSON" & "WELCH" THAT ALL CONVICTIONS & SENTENCES ARE VOID FOR VAGUENESS. SEE: 9TH CIRCUIT'S MAJORITY & PRECEDENT CITE: U.S. VS. LATTANAPHOM #CR-2-99-433  
DIMAYA V LYNCH, 803 F3d 1110 (9TH CIR)

2.) INSUFFICIENT EVIDENCE UNDER 18 USC § 924(c)(1) THAT DEFENDANT TAYLOR WAS INVOLVED IN ANY HOMICIDE OR ANY WEAPON WAS DISCHARGED THAT ACTUALLY CAUSED THE DEATH OF ONE "BILLY THOMAS".

3.) THIS COUNT IS DOUBLE JEOPARDY OR "LESSER INCLUDED OFFENSE" OF COUNT 5, 18 USC § 1959

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. § 2255, or any other petition, motion or application? Yes ☐ No ☐

a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_

b) If your answer is "No", state briefly your reason(s) for not presenting this ground: INEFFECTIVE COUNSEL  
FAILED TO ADDRESS ON APPEAL & SENTENCING

d) Ground Four: INSUFFICIENT EVIDENCE TO CONVICT & SENTENCE  
DEFENDANT TO LIFE VIA 18 USC § 1959 "VICAR"

- 1) Supporting facts (tell your story briefly without citing legal authority or argument):

1.) NO EVIDENCE OR TESTIMONY THAT CO-DEFENDANT DELVIN WARD DIRECTED DEFENDANT TAYLOR TO PERFORM ANY ILLEGAL ACTS TO MAINTAIN OR INCREASE TAYLOR'S POSITION AS AN ELEMENT TO CONVICT. SAME WITH ANTHONY MABRY, NO ORDERS OR DIRECTIO] GIVEN TO DEFENDANT TAYLOR TO DO ANY ILLEGAL ACTS, TO INCREASE OR MAINTAIN HIS POSITION UNDER 18 USC § 1959 "VICAR"

(c) GROUND FIVE. COUNT NINE VIOLATION OF 21 USC § 846 IS VOID FOR VAGUENESS, RULE OF LENITY APPLIES.  
"FACTS"

- 1.) COUNT NINE DEFINES THE DRUG AMOUNT IS 50 GRAMS OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A "DETECTIBLE AMOUNT" OF COCAINE BASE.... NOT MORE!
- 2.) HOW MUCH COCAINE BASE IS A "DETECTIBLE AMOUNT"?
- 3.) U.S.S.G. AMENDMENTS 304, 370, 484, 488, 518, 555, 640, 748, 770 STATES: ANY MIXTURE OR SUBSTANCE MUST BE SEPERATED, TO DETERMINE THE ACTUAL AMOUNT OF DRUGS, TO SENTENCE.
- 4.) HOWEVER: COUNT NINE DOES LIMIT THE AMOUNT OF ACTUAL DRUGS..... TO ONLY A "DETECTIBLE AMOUNT" OF COCAINE BASE NOT MORE.
- 5.) THE ELEMENT LIMITED IN COUNT NINE OF ONLY A "DETECTIBLE AMOUNT" LIMITS THE COURTS JURISDICTION TO SENTENCE A DEFENDANT TO (5) FIVE YEARS OR LESS.



(F) GROUND SIX THE APPLICATION OF A.E.D.P.A. OF 1996 AS APPRIEX TO DEFENDANT IS UNCONSTITUTIONAL

"FACTS"

- 1.) THE LIMITS PLACED UPON AN UNEDUCATED INDIVIDUAL, THAT IS POOR AND NO ACTUAL KNOWLEDGE OF THE LAW UNDER A.E.D.P.A. OF 1996 IS UNCONSTITUTIONAL.
- 2.) A WEALTHY & EDUCATED PERSON HAS THE WHEREWITHALL TO PROPERLY RESEARCH ALL LEGAL ISSUES OR TO HIRE AN ATTORNEY TO PROTECT HIS (1) ONE YEAR LIMITATION ON FILING A 28 USC § 2255.
- 3.) WHEN A DEFENDANT FAILS TO PROPERLY PRESENT ALL ISSUES IN HIS 28 USC § 2255, A.E.D.P.A. BARS A SECOND OR SUCCESSIVE MOTION

WHEREFORE A.E.D.P.A. OF 1996 IS UNCONSTITUTIONAL AS APPRIEX

- 2) Has this ground been previously presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. §2255, or any other petition, motion or application? Yes ☐ No ☒
- a) If your answer is "Yes", indicate which type of proceeding you used to present this ground: \_\_\_\_\_
- b) If your answer is "No", state briefly your reason(s) for not presenting this ground: \_\_\_\_\_
- 18) Do you have any petition, application, motion or appeal now pending in any court regarding the conviction under attack? Yes ☒ ~~No~~ If "Yes", state the name of the court and the nature of the proceeding: UNITED STATES COURT OF APPEALS 9TH CIRCUIT NO. 16-10364  
"OUT OF TIME APPEAL OF AN ILLEGAL SENTENCE"
- 19) Were you represented by an attorney at any time during the course of your arraignment and plea, trial (if any), sentencing, appeal (if any), or during the preparation, presentation or consideration of any petitions, motions or applications which you filed with respect to this conviction? Yes ☒ ~~No~~ If "Yes", state the name(s) and address (es) of any such attorney(s), the proceedings in which you were so represented and whether said attorney(s) was/were of your own choosing or if appointed by the court: COURT APPOINTED COUNSEL, CARL J. HERMAN  
347 MT. PLEASANT AVENUE, SUITE 203, WEST ORANGE,  
NEW JERSEY, 07052

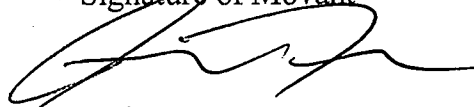
Wherefore, movant prays that the court grant him such relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

PRO-SE

(Attorney's full address and telephone number.)

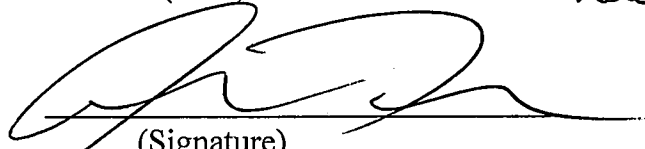
Signature of Movant

  
JACOREY TAYLOR

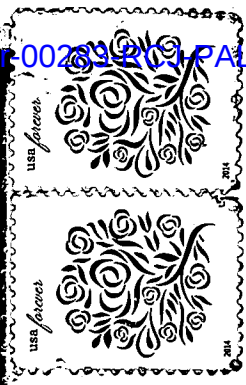
**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he is the movant in the above action, that he has read the above pleading and that the information contained therein is true and correct, *TO THE BEST OF MY KNOWLEDGE & BELIEF.*  
28 U.S.C. § 1746. 18 U.S.C. § 1621.

Executed at USP VICTORVILLE on SEPTEMBER 9TH, 2016.  
(Location) (Date) *PRISON MAIL BOX RULE*

  
(Signature)  
JACOREY TAYLOR

Jacorey Taylor #05263-748  
United States Penitentiary  
P.O. Box 3900  
Atlanta, CA 92301



Clerk; United States District Court  
333 Las Vegas Blvd South  
Las Vegas, NV

89101

Legal  
MAIL

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